IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

(1) CIVIL MISC. APPEAL No. 135 of 2005

CHIEF MANAGER,R.S.R.T.C.
V/S
KHUMANA @ KHUMA & ANR

(2) CIVIL MISC. APPEAL No. 136 of 2005

CHIEF MANAGER,R.S.R.T.C.
V/S
HUDI LAL & ORS

(3) CIVIL MISC. APPEAL No. 137 of 2005

CHIEF MANAGER,R.S.R.T.C.
V/S
SHANTA & ORS

Mr. ARJUN SINGH, for the appellant

Date of Order : 4.4.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

All these three appeals arise out of the same accident, and have been filed against the common judgment, deciding the three claims, and therefor they being decided by this common order.

The only submission made is, that the learned Tribunal has erred in holding the driver of the Corporation to be negligent in driving the bus.

I have considered the submission, and have perused the record, which was requisitioned.

According to the claimants, the facts of the case are, that on 4.1.1999, Khema and Khumana were going from Dhol Ki Pathi to Udaipur on Moped No.RJ27-1941, near Amba Mata Ki Ghati, they met Hudilal, and therefore, all the three persons were chatting on the road side, on its Kaccha portion. At that time, at about 2 in the noon, the Corporation's bus came from towards Udaipur, which was being driven rashly and negligently, which came on the wrong side, and hit three persons, as a result of which, the moped was dragged for 20-25 feets and Khemaraj received serious injuries, and died on the spot, while Khumana also

received serious injuries.

The Corporation contested the claim, pleading inter-alia that the three persons were traveling on a moped, which was being driven negligently. According to the appellant, the moped emerged on the main road from the side road at a fast speed, and in that process, the moped dashed against the diesel tank of the bus, on its right side, and consequently, fell down. Thus, the entire negligence was on the part of the victims.

In order to appreciate this rival contention, at the request of learned counsel for the appellant, I have seen the site inspection note, Ex.3, available on record, and a bare look at that, shows, that the bus is coming from North and going to South. On this road, the victims are said to have come from towards the road marked by letter-J, which is on the West of the road, while the accident is said to have occurred at point-B, and the bus is said to have dragged the moped upto point-C, while the dead body is lying at point-D. Point-E is the place, where the bus is found, while the moped is lying at place-F. It may be noticed here that point-C, E & F are practically the same place. In this background, it is significant to note that point-B is the extreme Western edge of the road, and is South-wards the road Junction-J at some distance. Thus, the place of accident being point-B is clearly a wrong side for the bus, who had no occasion to go at point-B, and then to point-C, E & F, which are rather the extreme Eastern edge of the road, being the correct side of the bus. Thus, it transpires, that the bus, while coming from Udaipur to Banswara, at the precise point of accident went on the wrong side, and hit the moped and victims, and dragged the moped to the correct side of the road, in which process, the dead body was left on the wrong side of the road, while the moped was dragged upto correct side of the road. It is required to be comprehended, that had the bus been driven on its correct side, and if the story as propounded by the defence, about the victim suddenly emerging from the side road, were to be believed, the accident would not have occurred, for the simple reason, that by then, the bus had already crossed the ‘T’ Junction point, and the victims were to go

towards North, after emerging from the road from towards the West. This rather shows, that the story propounded by the claimants is correct, that they were chatting, and the bus which was coming from opposite direction, came from wrong side, and hit them.

In this view of the matter, I do not find any sufficient ground to interfere with the finding of the learned trial Court, on issue No.1.

No other point was pressed.

The appeals thus, have no force, and are dismissed summarily.

(N P GUPTA),J.

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